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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/617,383

07/11/2003

Lien Chuan Yang

BHT-3214-69

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7590

06/29/2004

TROXELL LAW OFFICE PLLC
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH, VA 22041

EXAMINER

NGUYEN, TAM M

ART UNIT

PAPER NUMBER

3764

DATE MAILED: 06/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

CS

Office Action Summary	Application No.	Applicant(s)	
	10/617,383	YANG, LIEN CHUAN	
	Examiner	Art Unit	
	Tam Nguyen	3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-6 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

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DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weck et al. (6,554,753) in view of Hsu (6,746,372).

1. As to claim 1, 3, and 5 Weck et al. disclose a balance-exercise semi-spherical apparatus comprising a base disk (100) having a central hole (163), an annular frame in the form of a semi-sphere with an air cushion (50) that includes massaging protrusions (55) and an air faucet (150), and a fixing ring (125) connected with said base disk (see Figs. 1, 2 & 6). Weck et al. do not disclose that the base disk has two connection portions on diametrically opposed sides thereof or two pulling ropes made of elastic material that are detachably connected to the connection portions. Hsu discloses a similar balance-exercise apparatus that includes a base disk (11) having two connection portions (22) on diametrically opposed sides thereof and two pulling ropes (30) made of elastic material that are detachably connected to the connection portions. At the time of the invention, it would have been obvious to a person of ordinary skill in the art to add connection portions to Weck's device to receive elastic ropes since the practice of combining an inflatable bladder to elastic ropes is well known in the art and such a configuration would allow for a plurality of exercises with or without the ropes.

2. As to claim 4, Weck et al. and Hsu disclose a modified exercise apparatus as described above (see discussion of claim 1). Weck et al. do not disclose that the base disk includes footings. Hsu discloses footings (20) (see Fig. 4). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to add footings to Weck's apparatus since the practice of adding footings is well known in the art to provide greater stability to the overall apparatus.

3. As to claim 6, Weck et al. and Hsu disclose a modified exercise apparatus as described above (see discussion of claim 1). Weck et al. do not disclose a connections means between the disk and the fixing ring as substantially claimed; however, Weck et al. do disclose a clamping means for connecting the disk to the ring (see Fig. 6). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to utilize any of an array of connecting means such as that described by the applicant or Weck since both means are functionally equivalent in providing a mechanism for securing the disk to the ring.

Allowable Subject Matter

4. Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Art Unit: 3764

Strong et al. '587

Weck '983

Francavilla '284


Hancock '826

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tam Nguyen whose telephone number is 703-305-0784. The examiner can normally be reached on M-F, 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Lucchese can be reached on 703-308-2698. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

June 26, 2004


NICHOLAS D. LUCCHESI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700